

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY, CALIFORNIA
AND RECORD OF ACTION**

July 1, 2003

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FROM: KEN MILLER, Director
Public Works Department, Regional Parks Division

SUBJECT: AGREEMENT WITH BURLINGTON NORTHERN SANTA FE RAILWAY COMPANY FOR
USE OF A BELOW-GRADE-CROSSING FOR THE SANTA ANA RIVER TRAIL

RECOMMENDATION: Approve agreement with the Burlington Northern Santa Fe Railway Company (BNSF) which provides the County, for a cost of \$5,000, with a 25-year license to construct, maintain, use, repair, renew, and reconstruct a public pedestrian and bicycle trail along and under the BNSF's right-of-way, tracks and bridges in the Colton area.

BACKGROUND INFORMATION: On October 6, 1998, the Board of Supervisors approved County Policy No. 08-16 regarding the development of a trail system. Under this policy, the Board designated the Regional Parks Division as the lead department in identifying, recording, developing, maintaining, and providing riding (non-motorized) and hiking trails within San Bernardino County.

Pursuant to the above Policy, the Regional Parks Division has identified development of the Santa Ana River Trail (SART) as one of its primary goals. When completed, the SART will be a multiuse trail available to the public. To facilitate development of the SART, Regional Parks is recommending this agreement with the BNSF. This agreement permits the County to construct, operate, and maintain a section of the SART on certain land over which BNSF has a right-of-way. In accordance with the agreement, the County will have access to BNSF right-of-way to construct a 10-foot-wide, paved bikeway with 2-foot shoulders located under the BNSF's tracks and bridge. This license agreement is for 25 years but may be terminated by either party upon serving 60 days' written notice of termination.

Pursuant to this agreement, the County is indemnifying the BNSF for any loss arising from the use of property along this specific portion of the trail. In addition to the County's levels of self-insurance under the Trails program, BNSF requires the County or its contractor to provide a Railroad Protective Liability Policy during construction or maintenance. The County shall include this requirement in its procurement of design and/or construction services in relation to development of this section of the SART.

Board approval of this agreement is necessary to obligate previously approved funding from SANBAG and allow Regional Parks to move forward with the proposed trail development.

REVIEW BY OTHERS: This item has been reviewed by County Counsel (Deputy County Counsel Fiona Luke) on June 16, 2003, and the County Administrative Office (Administrative Analyst Tom Forster) on June 20, 2003.

FINANCIAL IMPACT: There is a one-time \$5,000 license fee that will be paid from available funds in the FY 2003/04 Regional Park's Trails budget (RTS CCP CCP).

COST REVIEW SECTION: The County Administrative Office has reviewed this agenda item and concurs with the department's recommendation because proceeding with this agreement is essential for the development of riding (non-motorized) and hiking trails along the Santa Ana River in the Colton area.

SUPERVISORIAL DISTRICT(S): 5th.

PRESENTER: Tom Potter, Chief of Regional Parks 387-2340.

Record of Action of the Board of Supervisors

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